

## Agricultural Marketing Service, USDA

## § 1170.6

(d) Announcement of the results of the referendum will be made only at the direction of the Secretary. The referendum agent or others who assist in the referendum shall not disclose the results of the referendum or the total number of ballots and votes cast.

### § 1160.608 Confidential information.

The ballots cast, the identity of any person who voted, or the manner in which any person voted and all information furnished to, compiled by, or in the possession of the referendum agent, except the list of eligible voters, shall be regarded as confidential.

### § 1160.609 Supplementary instructions.

The Administrator is authorized to issue instructions and to prescribe forms and ballots, not inconsistent with the provisions of this subpart, to govern the conduct of referenda by referendum agents.

## PARTS 1161–1169 [RESERVED]

## PART 1170—DAIRY PRODUCT MANDATORY REPORTING

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AUTHORITY: 7 U.S.C. 1637–1637b, as amended by Pub. L. 106–532, 114 Stat. 2541; Pub. L. 107–171, 116 Stat. 207; and Pub. L. 111–239, 124 Stat. 2501.

SOURCE: 73 FR 34181, June 17, 2008, unless otherwise noted.

### § 1170.1 Secretary.

*Secretary* means the Secretary of Agriculture of the United States or any other officer or employee of USDA to whom authority has been delegated.

### § 1170.2 Act.

*Act* means the Agricultural Marketing Act of 1946, 7 U.S.C. 1621 *et seq.*, as amended by the Dairy Market Enhancement Act of 2000, Pub. L. 106–532, 114 Stat. 2541; the Farm Security and Rural Investment Act of 2002, Pub. L. 107–171, 116 Stat. 207; and the Mandatory Price Reporting Act of 2010, Pub. L. 111–239, 124 Stat. 2501.

[77 FR 8721, Feb. 15, 2012]

### § 1170.3 Person.

*Person* means an individual, partnership, corporation, association, or any other business unit.

### § 1170.4 Dairy products.

*Dairy Products* means:

(a) Manufactured dairy products that are used by the Secretary to establish minimum prices for Class III and Class IV milk under a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(b) Substantially identical products designated by the Secretary in this part.

### § 1170.5 Manufacturer.

*Manufacturer* means any person engaged in the business of buying milk in commerce for the purpose of manufacturing dairy products in one or more locations.

### § 1170.6 Store.

(a) *Store* means to place cheese or butter in a warehouse or facility which is artificially cooled to a temperature of 50 degrees Fahrenheit or lower and hold these dairy products for 30 days or more; or

(b) *Store* means to place nonfat dry milk or dry whey in a manufacturing plant, packaging plant, distribution point, or shipment in transit.

## § 1170.7

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### DAIRY PRODUCT REPORTING PROGRAMS

#### § 1170.7 Reporting requirements.

(a) All dairy product manufacturers, with the exception of those who are exempt as described in § 1170.9, shall submit a report weekly to the Agricultural Marketing Service (AMS) by Tuesday, 12 noon local time of reporting entities, on all products sold as specified in § 1170.8 during the 7 days ending 12 midnight of the previous Saturday, local time of the plant or storage facility where the sales are made. If a Federal holiday falls on Monday through Wednesday of a particular week, the due date for report submission may be adjusted. Prior to the beginning of each calendar year, AMS shall release, to manufacturers that are required to report, the times and dates that reports are due. For the applicable products, the report shall be submitted by electronic means specified by AMS and shall indicate the name, address, plant location(s), quantities sold, total sales dollars, dollars per pound, and the moisture content where applicable. Each sale shall be reported for the time period when the transaction is completed, i.e. the product is “shipped out” and title transfer occurs. Each sale shall be reported either f.o.b. plant if the product is “shipped out” from the plant or f.o.b. storage facility location if the product is “shipped out” from a storage facility. In calculating the total dollars received and dollars per pound, the reporting entity shall neither add transportation charges incurred at the time the product is “shipped out” or after the product is “shipped out” nor deduct transportation charges incurred before the product is “shipped out.” In calculating the total dollars received and dollars per pound, the reporting entity shall not deduct brokerage fees or clearing charges paid by the manufacturer.

(b) Manufacturers or other persons storing dairy products are required to report, on a monthly basis, stocks of dairy products (as defined in § 1170.4) on hand, on the appropriate forms supplied by the National Agricultural Statistical Service. The report shall indicate the name, address, and stocks on hand

at the end of the month for each storage location.

[77 FR 8721, Feb. 15, 2012]

#### § 1170.8 Price reporting specifications.

The following are the reporting specifications for each dairy product:

(a) Specifications for Cheddar Cheese Prices:

(1) Variety: Cheddar cheese.

(2) Style: 40-pound blocks or 500-pound barrels.

(3) Moisture Content:

(i) 40-pound blocks: Moisture content is not reported. Exclude cheese that will be aged.

(ii) 500-pound barrels: Report weighted average moisture content of cheese sold. AMS will adjust price to a benchmark of 38.0 percent based on standard moisture adjustment formulas. Exclude cheese with moisture content exceeding 37.7 percent.

(4) Age: Not less than 4 days or more than 30 days on date of sale.

(5) Grade:

(i) 40-pound blocks: Product meets Wisconsin State Brand or USDA Grade A or better standards.

(ii) 500-pound barrels: Product meets Wisconsin State Brand or USDA Extra Grade or better standards.

(6) Color:

(i) 40-pound blocks: colored and within the color range of 6–8 on the National Cheese Institute color chart.

(ii) 500-pound barrels: white.

(7) Packaging:

(i) 40-pound blocks: Price should reflect cheese wrapped in a sealed, airtight package in corrugated or solid fiberboard containers with a reinforcing inner liner or sleeve. Exclude all other packaging costs from the reported price.

(ii) 500-pound barrels: Exclude all packaging costs from the reported price.

(8) Exclude: Intra-company sales, resales of purchased cheese, forward pricing sales (sales in which the selling price was set [not adjusted] 30 or more days before the transaction was completed), cheese produced under faith-based close supervision and marketed at a higher price than the manufacturer's wholesale market price for the basic commodity (for example, kosher cheese produced with a rabbi on site